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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,676	08/29/2003	Fumihiko Shimizu	241648US0CONT	7762

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EXAMINER

RABAGO, ROBERTO

ART UNIT PAPER NUMBER

1713

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,676

Applicant(s)

SHIMIZU ET AL.

Examiner

Roberto Rábago

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/2/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it exceeds the maximum length and is not presented as a single paragraph. Correction is required. See MPEP § 608.01(b).

Priority

2. The instant application claims priority under 35 USC 120 to a PCT application filed 8/23/2002, based upon priority documents filed as early as 8/24/2001. In order for the claimed priority to be valid, the instant continuation application would need to have been filed no later than 20 months from the earliest priority date (if only PCT Chapter I was elected) or 30 months from the earliest priority date (if PCT Chapter II was elected). Furthermore, designation of the US in the PCT filing is also required. This application was filed more than 24 months after the earliest priority date, yet the file contains no evidence that the US was designated or that PCT chapter II was elected.

To preclude denial of priority, applicants should submit evidence that PCT chapter II was elected during the international phase. If PCT chapter II was elected, applicants are furthermore requested to submit copies of any International Examination Reports which they may have received.

Information Disclosure Statement

3. Applicants are advised that the foreign-language references cited on the various IDS filed in this application have been considered solely on the basis of those portions of said references for which applicants have provided English translation.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) In claim 1 (and claims 2-13 by dependency), it cannot be determined whether or not the claims require mmmm pentads or a peak at 21.8 ppm. Applicants have used the phrasing "supposing that the chemical shift of the top of the peak assigned to a pentad represented by mmmm is 21.8 ppm,"; such wording, particularly with use of the word "supposing," renders indefinite whether these components are optional or required. The same ambiguity occurs a second time later in the clause, again including the word "supposing." Applicants are advised that the mere deletion of the word "supposing" would not resolve the question of whether the various recited components which occur with "supposing" are optional or required.

(b) Claim 4 includes the same ambiguous language as described in (a) above.

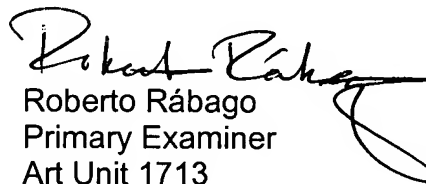
Art Unit: 1713

(c) Claim 6 is indefinite because the phrase "the polymer is a propylene monomer" is not understood.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roberto Rábago
Primary Examiner
Art Unit 1713

RR
May 12, 2005